

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

CUONG HUY DAO,

Plaintiff,

v.

P. TABOR, et al.,

Defendants.

No. 2:22-cv-00846 TLN KJN P

ORDER

Plaintiff is a state prisoner, proceeding without counsel, with a civil rights action pursuant to 42 U.S.C. § 1983. Pending before the court is plaintiff's motion for a forty-five days extension of time to file a dispositive motion filed December 22, 2023. (ECF No. 70.) For the reasons stated herein, plaintiff's motion for an extension of time is granted, and defendants are ordered to file a status report addressing plaintiff's allegations of tampering with his legal mail.

Plaintiff's Motion for Extension of Time

The deadline for plaintiff to file a dispositive motion was December 29, 2023. (ECF No. 40.) On December 22, 2023, the undersigned granted defendants' request for an extension of time to February 27, 2024, to file a dispositive motion. (ECF No. 69.)

In the pending motion, plaintiff states that he requires an extension of time because prison

1 officials tampered with his legal mail from the court and defendants. Plaintiff states that he  
2 requires time to obtain the legal mail prison officials refused to deliver to him. Good cause  
3 appearing, plaintiff's motion for a forty-five days extension of time to file a dispositive motion is  
4 granted.

5 Plaintiff's Allegations Regarding Tampering with Legal Mail

6 At the outset, the undersigned observes that on December 13, 2023, the November 29,  
7 2023 order denying plaintiff's motions to extend the discovery deadline and to compel was  
8 returned unserved on plaintiff. On December 28, 2023, the December 13, 2023 order denying  
9 plaintiff's motion for sanctions was returned unserved on plaintiff.

10 On December 18, 2023, plaintiff filed a pleading titled "Notice to Inform Defendants and  
11 Court of Prison Staff Legal Mail Tampering Acts." (ECF No. 67.) In this pleading, plaintiff  
12 alleges that on December 4 and 5, 2023, 3rd Watch Legal Mail Service Handler Correctional  
13 Officer L. Minh tampered with plaintiff's incoming legal mail. (Id. at 2.) Plaintiff states that he  
14 believes Officer Minh threw away plaintiff's legal mail. (Id.)

15 In the pending motion for extension of time, plaintiff alleges that on December 4, 2023, at  
16 about 7:48 p.m., Officer Minh tampered with his legal mail delivery, CSP-Sac Log no. 488734.  
17 (ECF No. 70 at 2.) Plaintiff alleges that on December 5, 2023, at about 8:24 p.m., Officer Minh  
18 tampered with plaintiff's legal mail delivery. (Id.) Plaintiff alleges that on December 14, 2023,  
19 at about 8:25 p.m., Officer Minh tampered with plaintiff's legal mail delivery. (Id.)

20 Plaintiff alleges that on December 14, 2023, plaintiff became agitated by Officer Minh's  
21 continued tampering with his legal mail. (Id.) After Sergeant Martin responded to plaintiff's  
22 alert, plaintiff told Sergeant Martin that on November 20, 2023, at about 6:46 p.m., Officer Minh  
23 aggressively ripped plaintiff's legal mail, damaged it and read it to plaintiff in a taunting manner.  
24 (Id. at 2-3.) Plaintiff also told Sergeant Martin that on December 4, 5, 12 and 14, 2023, Officer  
25 Minh approached plaintiff's housing to taunt and deny plaintiff his legal mail. (Id. at 3.) Plaintiff  
26 alleges that Sergeant Martin told plaintiff that he would retrieve plaintiff's legal mail, but  
27 Sergeant Martin never returned. (Id.)

28 Plaintiff alleges that on December 18, 2023, Officer Minh approached plaintiff's housing

1 to taunt and tamper with plaintiff's legal mail. (Id. at 3-4.)

2 The undersigned is concerned that plaintiff's allegations regarding Officer Minh's alleged  
3 tampering/refusal to deliver plaintiff's legal mail correspond with the two orders returned  
4 unserved on plaintiff on December 13, 2023, and December 28, 2023. Accordingly, defendants  
5 are ordered to file a status report addressing plaintiff's claims that Officer Minh refused to deliver  
6 plaintiff's legal mail on several occasions, ripped up plaintiff's legal mail and improperly read  
7 plaintiff's legal mail. Defendants shall also address plaintiff's claims that Sergeant Martin failed  
8 to respond to plaintiff's complaints regarding Officer Minh.


9 The undersigned herein directs the Clerk of the Court to re-serve plaintiff with the  
10 November 29, 2023, and December 13, 2023 orders and to serve plaintiff with a copy of the  
11 docket in this action. If plaintiff identifies additional orders and/or pleadings in the docket that he  
12 did not receive during November 2023 and December 2023, he may file requests for re-service of  
13 these orders and/or pleadings within fourteen days of the date of this order.

14 Accordingly, IT IS HEREBY ORDERED that:

- 15 1. Plaintiff's motion for an extension of time (ECF No. 70) is granted;
- 16 2. Plaintiff's dispositive motion is due forty-five days from the date of this order;
- 17 3. Within fourteen days of the date of this order, defendants shall file the status report  
18 discussed above addressing plaintiff's allegations regarding legal mail tampering;
- 19 4. The Clerk of the Court is directed to serve plaintiff with a copy of the docket in this  
20 action and to re-serve plaintiff with the orders filed November 29, 2023, and  
21 December 13, 2023 (ECF Nos. 63, 66); and
- 22 5. Within fourteen days of the date of this order, plaintiff may file requests for re-service  
23 of orders and/or pleadings that he did not receive during November 2023 and  
24 December 2023.

25 Dated: January 2, 2024

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28 KENDALL J. NEWMAN  
UNITED STATES MAGISTRATE JUDGE